

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition No.8149 of 2004

Shaikh Mohd.Yusuf Mohd.Yakub ..Petitioner

vs.

The State of Maharashtra & Ors. ..Respondents

Shri R.K.Mendadkar for petitioner
Shri V.A.Gangal Spl.Counsel i/b Shri C.R.Sonawane,
A.G.P. for respondent Nos.1, 2 and 4
Shri P.D.Jadhav for respondent no.5
Shri Hombalkar for respondent no.6

**CORAM: A.P.SHAH AND
S.C.DHARMADHIKARI JJ
1st December, 2004**

P.C.

1. Rule. Respondents waive service. By consent Rule is made returnable forthwith.

2. By this petition, the petitioner seeks to impugn the order passed by the Divisional Caste Certificate Scrutiny Committee, Pune Division, Pune dated 1st October, 2004 invalidating the caste certificate of the petitioner. The petitioner professes Muslim religion. It is the case of the petitioner that by birth he belongs to Shikalgar caste which is recognised as Nomadic Tribe. He claims that traditional occupation of his family is to furbish and polishing weapons, tools, knives etc. and even today he is carrying his traditional

occupation.

3. The petitioner was granted caste certificate on 31st December, 2001 by the Competent Authority. On the strength of this caste certificate the petitioner contested the election to respondent no.3 Corporation and got elected from the constituency reserved for Nomadic Tribe. The petitioner's case was referred to the Caste Scrutiny Committee for verification of the caste claim. Pursuant to the directions given by the Scrutiny Committee the Police Inspector of Vigilance Cell attached to the Committee conducted enquiry and reported that the petitioner is the resident of Satara and his occupation is of sharpening tools and that he belongs to Shikalgar community which is Nomadic Tribe.

4. In support of his claim the petitioner has placed on record as many as 30 documents. The Committee, however, came to the conclusion that the petitioner has failed to establish that he has got residence at Satara and that the Competent Authority at Satara had no jurisdiction to grant the caste certificate to the petitioner. On merits the Committee held that the petitioner does not

belong to Shikalgar community.

5. Shri Mendadkar, learned Counsel appearing for the petitioner submitted and not without sufficient force, that the Committee has not dealt with most of the documents produced by the petitioner which are listed pages 21 and 22 of the petition. The Police Inspector of the Vigilance Cell has in no uncertain terms reported that the petitioner belongs to Shikalgar caste. This finding of the Vigilance Cell has also not been considered by the scrutiny committee. Shri Gangal and Shri Hombalkar appearing for the respondents sought to contend that the report submitted by the Vigilance Officer is not based on the material on record. Even assuming that there is some substance in this contention the Scrutiny Committee is duty bound to consider the vigilance report and if the Committee decides to discard the report the Committee must give reasons for the same. The Committee is also obliged to consider the entire documentary evidence produced by the petitioner before the committee. But the Committee has not even cared to refer the report of the Vigilance Committee as well as documentary evidence adduced by the petitioner. Therefore, the impugned order of the committee

cannot be sustained. We quash and set aside the order and remit the matter back to the Scrutiny Committee for deciding the case afresh after giving opportunity of hearing to all the concerned parties. The Scrutiny Committee is directed to dispose of the case within a period of eight weeks from today. In case the order of the Committee is adverse to the petitioner it will not be implemented for a period of two weeks from the date of communication of the order to the petitioner. The petition is disposed of accordingly.